REMARKS

Entry of this Amendment if proper because it narrows the issues on appeal and does not require further search by the Examiner.

Claims 5 and 12 are rejected for informalities and claims 1, 3-5, 7-11, 15, and 17-25, all the claims presently pending in the Application, stand rejected on prior art grounds.

Specifically, claims 1, 3-5, 7, 9, and 15-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over by Mansbery et al (U.S. Patent No. 6,121,593) in view of Reynolds (U.S Pat. No. 6,587,879). Claims 8 and 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Mansbery in view of Reynolds and Cuomo (U.S. Pat. No. 5,861,883). Claim 11 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Mansbery in view of Reynolds in view of Cuomo in view of Gabai (U.S. Pat. No. 6,368,177).

These rejections are respectfully traversed in view of the following discussion. The Examiner has cited Reynolds for the first time in this Final Office Action. Further, the citation of new art in a Final Office Action at this time, after the Examiner withdrew the rejections from the Non-final Office Action, is prejudicial to Applicant.

I.   THE PRIOR ART REJECTIONS

THE MANSBERY AND REYNOLDS REFERENCES

The Examiner alleges that claims 1, 3-5, 7, 9, and 15-25 are unpatentable over

Mansbery in view of Reynolds. Applicant submits, however, that there are elements of

the claimed invention which are neither taught nor suggested by the Examiner's alleged

combination of references.

Regarding all of the pending claims, the Examiner has repeatedly failed to

provide evidence of a suggestion, teaching, or motivation to combine the cited

references. In the Final Office Action, the Examiner has failed to state a reason that

one skilled in the art at the time the invention was made would combine the teaching of

Mansbery and Reynolds to produce the claimed invention. The Examiner's alleged

combination of Mansbery and Reynolds serves as the basis for all of the claim

rejections in the Final Office Action.

Regarding claim 1, the Examiner admitted that "Mansbery does not disclose that

the address for the electronic appliance is an IP address and said electronic appliance

can actively receive electronic data transmissions from the Internet." (Final O.A., p. 4).

The Examiner then alleged that Reynolds makes up for the deficiencies of Mansbery.

However, as a reason to combine the two references, the Examiner stated that

> It would have been obvious to a person of ordinary skill in the art at time
> the invention was made to combine the teaching of Reynolds with
> Mansbery to allow testing of remote devices having limited processing
> capabilities, such as consumer appliances and other types of electronic
> devices, thereby reducing the need of sending a service representative to
> the appliance to determine if the appliance is malfunctioning as supported
> by Reynolds (col.1, lines 15-25, 45-50).

This is a flawed analysis of combining prior art references to produce the claimed invention. The Examiner has alleged that combining Mansbery with Reynolds will produce the disclosure of Reynolds. Combining Reynolds with Mansbery in order to create the disclosure of Reynolds (e.g.,allow testing of remote appliances to prevent a service technician) is an improper reason to combine with Mansbery and does not make sense. The alleged combination, which would only produce the disclosure of Reynolds, adds no disclosure to either Reynolds or Mansbery that would teach Applicant's claimed invention.

Further, there is no teaching or suggestion in Mansbery to combine with Reynolds in order for "testing of remote devices having limited processing capabilities, such as consumer appliances and other types of electronic devices, thereby reducing the need of sending a service representative to the appliance to determine if the appliance is malfunctioning" as described by the Examiner. Mansbery discloses "to provide a food heating and cooling unit, which may be actuated from a remote location" and to "actuate home appliances from a remote location utilizing a specific method and mechanism of doing so." (col. 1, lines 40-48). As is clear, Mansbery is directed towards heating and cooling a consumer appliance remotely and does not suggest Reynold's purpose of replacing a service technician by performing a test of a consumer appliance from a remote location. In such a combination, one skilled in the art would recognize that Mansbery is unnecessary and adds nothing to Reynolds produce the teachings of Reynolds.

The Examiner has failed to make a requisite showing of the teaching or motivation to combine the prior art references. Thus, there is no reason one skilled in the art would combine Mansbery with Reynolds to produce the disclosure of Reynolds, absent hindsight. The obviousness rejections for all the presently pending claims are impermissible and should be withdrawn.

Further, the Examiner has attempted to identify in separate pieces of prior art each individual part claimed in the Application. This is insufficient to defeat patentability of the whole claimed invention. See In Re Werner Kotzab, 217 F.3d 1365, 1370 (Fed. Cir. 2000). For Example regarding claim 1, the Examiner alleges that "Mansbery discloses a system for proxy browsing the Internet," that includes

> an electronic appliance linked to a powerline network 150 which is connected to an appliance server 100 connected to the Internet, the electronic appliance comprises a unique CEBUS address on the powerline network . . .
> wherein said Proxy Browser transmits a command through the Internet that directs an Internet server (i.e., "Tonight's menu Appliance server" 100) to transmit a remote digital file . . .

The Examiner then alleges that Reynolds discloses

> wherein the electronic appliance (i.e. refrigerator, microwave, etc.) includes a network address, such as an IP address . . .
> and said electronic appliance can actively receive electronic data transmissions from the Internet.

Yet this reference-by-reference, limitation-by-limitation analysis fails to demonstrate how the Mansbery and Reynolds references teach or suggest their

combination to yield the claimed invention. To the contrary, the obviousness analysis in the Examiner's rejections are limited to a discussion of the ways that the multiple prior art references can individually be read on different elements of the claimed invention.

In rejecting claims 3-4, 11, and 15-25, the Examiner makes the same allegations to combine Mansbery with Reynolds. Nowhere does the Examiner particularly identify any suggestion, teaching, or motivation to combine the references, nor does the Examiner make specific--or even inferential--statements concerning the identification of the relevant art, the level of ordinary skill in the art, the nature of the problem to be solved, or any other facts that might serve to support a proper obviousness analysis. In each rejection, the Examiner merely states that Reynolds would be combined with Mansbery to teach the disclosure of Reynolds as described in column 1, lines 15-25 and lines 45-50 of Reynolds.

For a further example, in rejecting claim 4, the Examiner admits that Mansbery "does not specifically disclose that the embedded server in the electronic appliance is an embedded server" and that Reynolds discloses this feature. (Final O.A., p.5). The Examiner further repeats the allegations to combine to test consumer appliances remotely to reduce the need to send a service technician to the appliance to determine if the appliance is malfunctioning. No person skilled in the art at the time of the invention would combine Mansbery with Reynolds to arrive at the teachings of Reynolds and Reynolds' replacement of a service technician adds no disclosure to Mansbery that would teach the claimed invention.

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However, even if combined, the combination of Mansbery with Reynolds fails to teach or suggest the claimed invention.

The Examiner alleges Figure 2, reference numeral 200 discloses

> an electronic appliance linked to a powerline network 150 which is connected to <u>an appliance server 100</u> connected to the Internet, the electronic appliance comprises a unique CEBUS address on the powerline network;
> wherein said Proxy Browser transmits a command through the Internet that directs <u>an Internet server (i.e., "Tonight's menu Appliance Server 100</u>) to transmit a remote digital file (i.e., recipe of file of commands to cook the dish selected by the user) selected by said Proxy Browser program to said electronic appliance address. (Final O.A., p. 4-5) (emphasis Applicant's).

However, these passages from Mansbery merely describe a client/server architecture where "an appliance server runs on the home server" that allows client software located on a computer on the Internet or on a home network to communicate with the appliance server 100 (Mansbery, col. 5, lines 45-65). The Examiner has alleged that appliance server 100 that is "connected to the Internet" is the same as "an Internet server (i.e., "Tonight's menu Appliance Server 100)," which are analogized to the claimed "Internet server," "wherein said Proxy Browser transmits a command with said electronic appliance IP address through the Internet that directs <u>an Internet server</u> to transmit a remote digital file selected by said Proxy Browser program to said electronic appliance IP address," as recited in claim 1. This is respectfully incorrect.

The Appliance Server 100 is neither characterized nor named as an "Internet server" by Mansbery anywhere in the disclosure. This assumption has been read into

the disclosure and furthermore cannot be analogized to the claimed "Internet server."

In a non-limiting exemplary embodiments of the Application in Figure 2, "Web server" 40 is illustrated on Internet 38 prior to entering Applicant's home 42 that has a local area network "LAN server" 44 that controls home network through hub 46. The Web server 40 and the LAN server 44 are clearly two different devices serving different function in Applicant's invention. In Figures 3A-3D of the Application, Web servers 80, 90, 100, and 112 are illustrated with the Internet and are remote from client devices in homes 84, 94, 106, and 118, respectively.

In contrast, Mansbery discloses an appliance server "that runs on the home server" (col. 5, line 46) and contains a software called Tonight's Menu Appliance Server software 100 that "runs on the home computer" (col. 6, lines 15-17). The Server Software 100 "can communicate and operate home appliances 200." (Mansbery, col. 6, lines 40-41). "The Tonight's Menu Appliance Server Software 100 receives information from the internet and translates this information into specific commands to operate the home appliances 200." (Mansbery, col. 6, lines 22-25) Figure 2 of Mansbery illustrates the "Tonight's Menu Appliance Server" as the "Home Complex" 100, which is separate and distinct from the "Internet" which is labeled without a reference numeral.

There is no teaching or suggestion in Mansbery of "said Proxy Browser transmits a command with said electronic appliance IP address through the Internet that <u>directs an Internet server to transmit a remote digital file</u> selected by said Proxy Browser

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program to said electronic appliance IP address," as recited in claim 1. Mansbery's

Menu Server 100 is clearly located on the home network, not the Internet. The Menu

server 100 is a common home network server that merely "receives information from

the internet" but is not characterized as, shown, or described as an "Internet server."

The present Application clearly shows a common home network server 44 in Figure 2

that is separate and distinct from an Internet server 40 that would " transmit a remote

digital file selected by said Proxy Browser program to said electronic appliance IP

address," as recited in claim 1.

The Examiner has further alleged that the characterization of "all communication

is mediated through the appliance server 100" discloses "said Proxy Browser transmits

a command through the Internet that directs an Internet server . . . to transmit a remote

digital file . . . selected by said Proxy Browser program to said electronic appliance

address without said electronic appliance communicating with said proxy browser."

(emphasis Applicant's). However, this is an incorrect mischaracterization of Mansbery's

disclosure, and in contrast to the claimed invention, Mansbery's appliances 200

exchange communications with Mansbery's remote computer 50 that is linked to the

Internet. Mansbery does not disclose that "all communication is mediated through the

appliance server 100" (emphasis Applicant's), and Applicant cannot determine what the

Examiner defines as communication that is "mediated through" the appliance server

100.

As is clear, Mansbery discloses that the client computer 50 communicates with

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the appliances 200, and vice-versa. There is no teaching or suggestion of "said Proxy

Browser transmits a command . . . without said electronic appliance communicating

with said proxy browser," as recited in claim 1. The appliance server 100 software is the

"CEBUS" operating system for home appliances 200 and merely translates the

commands from the client software 50 into the "CEBUS" type of formatting so that

appliances can communicate with external software. Mansbery discloses that home

appliance server 100 is the operating system for each of the appliances 200, and

therefore when a user communicates with the appliance server 100, the user is actually

communicating with the appliance 200. Part of the purpose of each computer 21 inside

each appliance 200 in Mansbery, Figure 1, is for "responding to control requests

submitted via digital control from remote locations." (Mansbery, col. 3, lines 7-8).

Mansbery describes how the appliances 200 communicate with remote client computer

50:

> The present invention discloses a CEBUS Subsystem protocol 120
> to communicate with the home appliances 200. The Tonight's Menu
> Appliance Server Software 100 receives information from the internet and
> translates its information into specific commands to operate home
> appliances 200. (col. 6, lines 20-25).
>
> .
> .
> .
>
> The Tonight's Menu Appliance Server Software 100 will also create
> a CORBA appliance object 100 for each home appliance 200 . . . (col. 6,
> lines 29-32)
>
> .
> .
> .
>
> Thus, a user on a remote computer running the Tonight's Menu
> Client Software 50 connected through the Internet through the CORBA

appliance objects 110 to the Tonight's Menu Appliance Server Software 100 <u>can communicate and operate home appliances 200</u>. (col. 6, lines 37-42) (emphasis Applicant's)

Thus, although the Examiner alleges that "all" communication is "mediated" through the Appliance Server 100 means that Mansbery's appliances 200 do not communicate with a browser on remote computer 50, Mansbery discloses that "a user on a remote computer . . . can communicate and operate home appliances 200." By connecting remotely through home Appliance server 100 using Tonight's Menu Appliance Server Software 100, the appliances 200 <u>clearly communicate with a remote Tonight's Menu Client Software 50</u>.

Mansbery fails to teach or suggest "said Proxy Browser transmits a command with said electronic appliance IP address through the Internet that <u>directs an Internet server to transmit a remote digital file</u> selected by said Proxy Browser program to said electronic appliance IP address <u>without said electronic appliance communicating with said proxy browser</u>," as recited in claim 1. The claimed invention allows user to select a file to download to a remote appliance and command a remote Internet server to perform the transmission to the appliance's unique IP address. In a non-limiting exemplary embodiment of the present invention, "The Web server 38 receives commands from the proxy browser 26 to send a file or Web page to a specific client on a network 42." (Application, p. 12, lines 20-22) Further, the file transmission between the Web server and the client (e.g., electronic appliance) occurs <u>"without said electronic</u>

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appliance communicating with said proxy browser" which includes without a controller of the appliance being controlled by the proxy browser. In an exemplary embodiment, "The client PC 62 in the embodiment does not need to communicate directly with the Proxy Browser 26." (Application, p. 15, lines 1-5). Thus, Mansbery's appliances 200 communicate with Mansbery's remote browser program 50, which is a feature negatively claimed by the claimed invention.

Further, the Examiner alleges that Figure 9 and "the appliance server 100 of Mansbery does not notify the client software/browser that the download has been completed, merely just begins executing the digital recipe file" discloses "said Internet server verifies said IP address and verifies a transmission of said remote digital file without interaction of said proxy browser program," as recited in claim 3 (emphasis Applicant's). The Examiner is respectfully incorrect. Column 9, lines 1-30 of Mansbery clearly show that "Information regarding a particular button that was pressed by the user will be transmitted from the Tonight's Menu Client Software 50 to the Tonight's Menu Appliance Server Software 100," and that "The Tonight's Menu Appliance Server Software 100 will notify the user that it has successfully received the user's remote button command."

For at least the reasons stated above, Applicant respectfully submits that Mansbery and Reynolds fail to teach or suggest every feature of claims 1, 3-5, 7, 9, and 15-25, and these claims are fully patentable over the cited references. Based on the foregoing, the Examiner is respectfully requested to reconsider and withdraw the

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rejection.

THE CUOMO REFERENCE

The Examiner alleges that claims 8-10 are obvious over Mansbery and Reynolds in view of Cuomo. This is incorrect. Contrary to the Examiner's assertions, columns 1 and 5 of Cuomo do not teach or suggest proxy browsing the Internet and downloading and playing digital audio or video files on digital speakers or a video player linked to the Internet. In fact, Cuomo's disclosure is a completely different technology describing Web collaboration between multiple users. Applicant further submits that Cuomo would not have been combined with Mansbery and Reynolds to produce the claimed invention. Cuomo fails to add to the disclosures of Mansbery and Reynolds that would be used by one skilled in the art to further the combination to produce downloading of audio files or video files by proxy. Coumo is a method for collaboration of different computers over the Internet using existing Web browsers. (col. 2, lines 25-30) In contrast, Mansbery and Reynolds do not teach or suggest collaboration over the Internet but instead teach direct remote control of home appliances through a series of networks and systems that define objects to control the appliances.

However even if combined, the combination does not teach or suggest "wherein said Proxy Browser program selects a digital music file from said Internet server and sends said command to download said digital music file to said digital speaker IP address, and said music file is downloaded and played on a said digital speaker," as

recited in claim 8 or similarly for a video file in claim 10.

Cuomo describes a collaborative network group that uses "addURL" and "removeURL" commands in client software so that information about pages currently viewed by each user is received by every other user and that collaborative data is exchanged among users who are seeing one or more pages in common on their respective browsers. This is a different technology for a different purpose than the claimed invention. Cuomo's method discloses sharing the same file in common with a number of collaborative users and fails to teach or suggest sending audio or video files by proxy.

For at least the reasons stated above, Applicant respectfully submits that the combination fails to teach or suggest every feature of 8 and 10 and the claims are fully patentable over the cited references. Based on the foregoing, the Examiner is respectfully requested to reconsider and withdraw the rejection.

THE GABAI REFERENCE

The Examiner alleges that claim 11 is obvious over Mansbery, Reynolds, and Cuomo in view of Gabai. In addition to the reasons not to combine Cuomo and Reynolds with Mansbery stated above, the Examiner states combining with Gabai is obvious because it would "provide messages to the user which can be used for effecting sales over the Internet as stated in Gabai." (Final Office Action, p. 9). Effecting sales over the Internet is not a part of the disclosures of Mansbery, Reynolds,

Cuomo, nor a problem addressed by the present invention. Therefore, one skilled in the art would not combine Gabai because effecting sales over the Internet fails to add disclosure to produce the claimed invention of downloading a game file to a game or toy that is connected to the Internet. This is merely a reference-by-reference, limitation-by-limitation analysis that fails to demonstrate how the references teach or suggest their combination to yield the claimed invention.

Therefore, Applicant requests that this rejection be reconsidered and withdrawn.

II.   The 35 USC §112 REJECTION

Applicant has been amended claim 5 to recite that the configuration data is located on the Internet server. Further, claim 7 has been amended to recite that the oven downloads the recipe file.

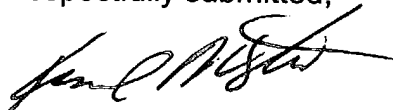## III.   FORMAL MATTERS AND CONCLUSION

Applicant submits that claims 1, 3-5, 7-11, 15, and 17-25, all the claims presently pending in the Application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above Application to issue at the earliest possible time.

Should the Examiner find the Application to be other than in condition for allowance, the Examiner may contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or
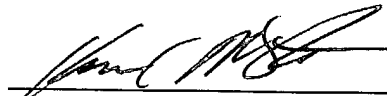
personal interview. The Commissioner is hereby authorized to charge any fees

associated with this communication to Client's Deposit Account No. 20-0668.

Respectfully submitted,

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_____   5/3/04
Kendal M. Sheets   Date

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